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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 CALIFORNIA EXPANDED
11 METAL PRODUCTS COMPANY,
12 et al.,

13 Plaintiffs,

14 v.

15 JAMES A. KLEIN, et al.,

16 Defendants.

17 CASE NO. C18-0659JLR
18 ORDER

19 On January 26, 2023, the court entered an order adopting in part the report and
20 recommendation issued by Special Master Mark Walters recommending that the court
21 grant in part Plaintiffs' motion for contempt damages. (*See* 1/26/23 Order (Dkt. # 332);
22 R&R (Dkt. ## 310 (sealed), 336 (redacted)).) In its order, the court ordered Non-Party
Seal4Safti, Inc. ("S4S")¹ to "pay a daily fine of \$3,500, beginning on February 28, 2023,

¹ S4S is not a party to the underlying litigation, but it was added to these contempt proceedings on September 1, 2021. (*See* 9/1/21 Order (Dkt. # 251).)

1 for every day S4S fails to withdraw its [Underwriter Laboratories ('UL')] listings that
2 reference, depict, or suggest the application of an FRG Strip (or any other intumescent
3 strip not more than colorably different from FRG Strip) on the outer sidewall surface of a
4 U-shaped track." (1/26/23 Order at 34.) The court stated that the daily fine would "cease
5 once S4S submits a declaration to the court evidencing that it has withdrawn such UL
6 listings." (*Id.* at 34 & n.33 ("S4S can avoid the fine entirely by withdrawing such UL
7 listings before February 28, 2023.").)

8 On February 28, 2023, S4S submitted the instant declaration of Jaroslaw Sydry,
9 co-founder and co-owner of S4S, in an effort to demonstrate its compliance with the
10 above-mentioned portion of the court's January 26, 2023 order. (*See* Sydry Decl. (Dkt.
11 # 337).) In his declaration, Mr. Sydry states that S4S initiated "orders for changes to [its]
12 UL listings" in July and October 2022 and accepted UL's quotes for those orders in
13 September and October 2022. (Sydry Decl. ¶ 3, Exs. A-B.) He further states that S4S
14 submitted updated UL listings, which "eliminate any reference, depiction, or suggestion
15 that an FRG Strip be applied on the outer surface of a U-Shaped Track," to UL on
16 October 17, 2022. (*Id.* ¶ 4, Ex. C (including the modified UL listings).) Although UL
17 has not yet modified S4S's UL listings, Mr. Sydry submits evidence establishing that S4S
18 has diligently followed up with UL regarding the status of the updated UL listings and
19 has requested that UL complete the orders as soon as possible. (*Id.* ¶ 5, Exs. D-E.)

20 Because UL is a third-party entity, there is only so much that S4S can do with
21 respect to the removal or modification of its UL listings. Mr. Sydry's statements and the
22 evidence submitted in support of his declaration establish that S4S made reasonable

1 efforts to remove from its UL listings any reference, depiction, or suggestion of the
2 application of an FRG Strip (or any other intumescent strip not colorable different from
3 FRG Strip) on the outer sidewall surface of a U-Shaped track. Accordingly, the court
4 finds it appropriate to DISCHARGE the daily fine.² S4S is no longer required to pay a
5 daily fine for noncompliance with the court's permanent injunction. (*See* 1/26/23 Order
6 at 32-34.)

Dated this 2nd day of March, 2023.



JAMES L. ROBART
United States District Judge

² Although S4S submitted the instant declaration on February 28, 2023, rather than before February 28, the evidence establishes that S4S made reasonable efforts to modify its UL listings before February 28, 2023. (*See generally* Sydry Decl. ¶¶ 3-5, Exs. A-E.) Accordingly, S4S purged itself of the daily fine before the fine began to accrue. (See 1/26/23 Order at 33-34 & n.33.)